

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

AUGUSTO CORNELIO

v.

UNITED STATES

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CIVIL NO. 05-10163-RGS

**GOVERNMENT'S MOTION FOR ENLARGEMENT OF TIME IN WHICH TO RESPOND
TO PETITIONER'S MOTION TO VACATE, SET ASIDE OR CORRECT SENTENCE**

The United States of America, by United States Attorney Michael J. Sullivan and Assistant United States Attorney James Lang, respectfully moves for an additional thirty-five days within which to file its response as respondent to the petitioner's motion to vacate, set aside, or correct his sentence (hereinafter, "the petition"). As reasons therefore, the undersigned states as follows:

1. On January 31, 2005, the Court issued an order directing the Clerk of the District Court to serve a copy of the petition on the government and directing the government to file a responsive pleading within twenty days of its receipt of said petition. As a consequence of such order, the government's response was required to be filed on or about February 22, 2004.

2. On February 24, 2005, I received a copy of the Court's order, which was in an unstamped envelope addressed to United States Attorney Michael Sullivan. The envelope was likely delivered to the United States Attorney's Office on or about January 31 or February 1, 2005. The government cannot account for its whereabouts within this office from that date until February 24, 2005 when it was delivered to me, but it must have

been misdirected or misplaced within this office. Accordingly, the government concedes it is solely at fault for its failure to timely respond to the petition.

3. Inasmuch as the time within which the government was to respond to the petition has already lapsed, additional time is required to prepare an adequate responsive pleading. In addition to the time required to research and draft the response, because the petitioner has alleged ineffective assistance of counsel, it may be necessary to seek to obtain an affidavit from counsel.

4. The petitioner is currently serving a 70-month sentence of incarceration.

WHEREFORE, for good cause shown, the government respectfully requests that the within motion be allowed and that the Court extend by thirty-five days, to March 28, 2005, the time within which the government must respond to the petition.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By:

\s\ James Lang
JAMES LANG
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

Suffolk, ss.

Boston, Massachusetts
February 25, 2002

I, James Lang, Assistant U.S. Attorney, do hereby certify that I have served by mail a copy of the Government's Motion to Enlarge Time Within Which to Respond to Petitioner's Motion to Vacate, Set Aside, or Correct Sentence on Augusto Cornelio, Pro Se, Prisoner No. 24838-038, F.M.C. Devens, Ayer, MA 01432.

\s\ James Lang

JAMES LANG
Assistant U.S. Attorney

